

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LARRY EDWARD HARRISON,

Petitioner,

v.

CASE NO. 2:18-CV-12741
HONORABLE SEAN F. COX

KEVIN LINDSEY,

Respondent.

**ORDER TRANSFERRING CASE TO THE UNITED STATES
COURT OF APPEALS FOR THE SIXTH CIRCUIT**

Michigan prisoner Larry Edward Harrison (“Petitioner”) has filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 challenging his state criminal convictions and sentences. Petitioner was convicted of two counts of first-degree murder, and two counts of armed robbery, and possession of a firearm during the commission of a felony following a jury trial in the Wayne County Circuit Court. He was sentenced to life imprisonment without parole on the murder convictions, concurrent terms of 25 to 50 years imprisonment on the armed robbery convictions, and a consecutive term of two years imprisonment on the felony firearm conviction in 2001. The Court’s records reveal that Petitioner has previously and unsuccessfully sought federal habeas relief with regard to those same convictions and sentences.

Under the Antiterrorism and Effective Death Penalty Act of 1996 (“AEDPA”), codified at 28 U.S.C. § 2241 *et seq.*, a person seeking to file a “second or successive” habeas petition must ask the appropriate court of appeals for an order directing the district court to consider the petition. *See* 28 U.S.C. § 2244(b)(3)(A); *Stewart v. Martinez-Villareal*, 523 U.S. 637, 641 (1998); *In re Wilson*, 142 F.3d 939, 940 (6th Cir. 1998). This requirement transfers to the court of appeals a screening

function which the district court previously performed. *Felker v. Turpin*, 518 U.S. 651, 664 (1996).

Petitioner previously filed a federal habeas petition challenging the same state convictions and sentences, which was dismissed with prejudice. *Harrison v. Romanowski*, No. 2:04-CV-71628 (E.D. Mich. Aug. 12, 2005) (O’Meara, J.). Petitioner filed the instant petition on September 4, 2018. He raises claims concerning his ability to see the jurors, his confrontation rights and ability to observe witnesses, the conduct of the presiding state court judge, the propriety of a remand hearing on direct appeal, and the propriety of his appeal. Petitioner, however, has not obtained appellate authorization to file a second or successive habeas petition as required by 28 U.S.C. § 2244(b)(3)(A).

Accordingly,

The Court **ORDERS** the Clerk of the Court to transfer this case to the United States Court of Appeals for the Sixth Circuit pursuant to 28 U.S.C. § 1631¹ and *Sims v. Terbush*, 111 F.3d 45, 47 (6th Cir. 1997) (“when a prisoner has sought § 2244(b)(3) permission from the district court, or when a second or successive petition for habeas corpus relief . . . is filed in the district court without § 2244(b)(3) authorization from this court, the district court shall transfer the document to this court pursuant to 28 U.S.C. § 1631”).

s/Sean F. Cox
SEAN F. COX
UNITED STATES DISTRICT JUDGE

Dated: September 13, 2018

¹28 U.S.C. § 1631 provides in pertinent part:

Whenever a civil action is filed in a court ... and that court finds that there is a want of jurisdiction, the court shall, if it is in the interest of justice, transfer such action ... to any other such court in which the action ... could have been brought at the time it was filed ..., and the action . . . shall proceed as if it had been filed in ... the court to which it is transferred on the date upon which it was actually filed in ... the court from which it was transferred.

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PROOF OF SERVICE

I hereby certify that on September 13, 2018, the foregoing document was served on counsel of record via electronic means and upon Larry Edward Harrison via First Class mail at the address below:

Larry Edward Harrison
156814
G. ROBERT COTTON CORRECTIONAL FACILITY
3500 N. ELM ROAD
JACKSON, MI 49201

s/J. McCoy
Case Manager